

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-81—sSB 863

General Law Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING THE LICENSING OF SWIMMING POOL
INSTALLERS, ELECTRONIC NOTICE OF PROPOSED AGENCY
REGULATIONS AND MINOR AND TECHNICAL CHANGES TO
DEPARTMENT OF CONSUMER PROTECTION STATUTES**

SUMMARY: This act (1) creates a new swimming pool builder's license and (2) extends existing licensing penalties to swimming pool builders and swimming pool maintenance and repair contractors who work without a license. Although these maintenance and repair contractors are already required to be licensed, there was previously no penalty for doing such work without one. The act specifies that swimming pool maintenance and repair work includes tiling and coping.

The act also:

1. eliminates the requirement for state agencies to deliver notice for proposed regulations by mail, thereby allowing them to send such notices electronically;
2. gives state agencies the option of providing paper or electronic versions of proposed regulations to those requesting them;
3. eliminates the requirement that the Department of Consumer Protection (DCP) send notice of license expiration by mail, thereby allowing DCP to deliver notices electronically; and
4. repeals a 6.25% liquor administrative fee on package store, grocery store, and druggist permits, and creates an equivalent flat fee and adds it to the existing annual fees for these permits.

EFFECTIVE DATE: Upon passage for the swimming pool builder's license, October 1, 2011 for the electronic delivery and liquor permit fee provisions, and July 1, 2012 for the penalties and repair work definition.

SWIMMING POOL BUILDER'S LICENSE

The act defines a "swimming pool builder" as someone who, for monetary gain, excavates, grades for, and constructs and builds a swimming pool, including tiling, coping, decking, and installing associated circulation equipment such as pumps, filters, and chemical feeders. It also defines a "swimming pool" as a permanent spa or any in-ground or partially above-ground structure intended for swimming that is more than 24 inches deep.

The act requires the DCP commissioner to adopt regulations, by July 1, 2012, to establish the amount and type of experience, training, and continuing education and examination requirements for obtaining and renewing a swimming pool

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builder's license. The initial license fee is \$150 and the license is renewable annually for \$100.

Upon the adoption of regulations, the act bans anyone from building a swimming pool, except on his or her own property, without being both a DCP-licensed swimming pool builder and a registered home improvement contractor. It also prohibits anyone licensed as a swimming pool builder from performing electrical; plumbing and piping; or heating, piping and cooling work, unless he or she is licensed to do such work.

From the adoption of the regulations until January 1, 2014, DCP must issue a swimming pool builder's license without examination to anyone who applies and demonstrates experience and training equivalent to that required to qualify for a license under DCP's regulations.

LICENSE PENALTIES

The act extends to swimming pool builders and swimming pool maintenance and repair contractors the existing penalties for contractors who work without a license. Under prior law, swimming pool maintenance and repair contractors were required to be licensed, but there was no penalty for doing such work without a license.

The law prohibits unlicensed persons from willfully engaging in work that requires an occupational license. The prohibition also applies to willfully employing or supplying someone without a license, willfully and falsely pretending to qualify to practice a licensed trade, or willfully doing such work after license expiration.

By law, the DCP commissioner may impose civil penalties for licensure violations. In addition, violators are guilty of a class B misdemeanor (see Table on Penalties), an unfair or deceptive trade practice, and must pay restitution. If they cannot pay the restitution in full, a court may sentence them to probation for up to five years.

BACKGROUND

Civil Penalties

Civil penalties for working without a license consist of a fine of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring within three years after a previous violation.

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable

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attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

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